

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

Civil Action No. 4:19-cv-157-D

DIJON SHARPE,

Plaintiff,

v.

WINTERVILLE POLICE
DEPARTMENT; Officer WILLIAM
BLAKE ELLIS, in his official capacity
only; and Officer MYERS PARKER
HELMS IV, both individually and in his
official capacity,

Defendants.

PARTIAL MOTION TO DISMISS

Defendants, by and through undersigned counsel, hereby move to dismiss the Complaint in part in this matter pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(6). Defendants respectfully contend that they are entitled to dismissal of all claims against the Winterville Police Department and all claims against Officer Myers Parker Helms, IV in his individual capacity, due to the following grounds:

1. Plaintiff's claims fails to state a claim upon which relief can be granted as to these defendants;
2. Plaintiff's claims against the Winterville Police Department are subject to dismissal, as the Winterville Police Department is not an entity capable of being sued, and therefore this court lacks personal jurisdiction;;

3. Officer Helms is entitled to qualified immunity as the claims asserted against him in his individual capacity.

WHEREFORE, Defendants respectfully request that the above noted claims be dismissed pursuant to F. R. Civ. P. 12(b)(2) and 12(b)(6).

Respectfully submitted, this the 3rd day of February, 2020.

/s/ Dan M. Hartzog Jr.
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Defendants.)

CERTIFICATE OF SERVICE

I hereby certify that on February 3, 2020, I electronically filed the foregoing pleading with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

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Attorney for Plaintiffs

This the 3rd day of February, 2020

HARTZOG LAW GROUP, LLP

/s/ Dan M. Hartzog Jr.

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